



Appeal Decision

Hearing held on 14 December 2022

Site visit made on 14 December 2022

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 20 April 2023

Appeal Ref: APP/M2840/W/22/3291195

Ganders Farm, Rockingham Road, Cottingham, LE16 8XS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Ian Horton against the decision of North Northamptonshire Council.
- The application Ref: NC/21/00236/DPA, dated 4 May 2021, was approved on the 26 August 2021 and planning permission was granted subject to conditions.
- The development permitted is described as 'Temporary Planning permission was sort after in 2017 for a 2 bed eco log cabin to be used as a farm house for the business, it was approved for 3 years so farm business viability could be confirmed, application 16/00349/DPA. We are now seeking full permanent permission for the existing development that has been in place since its completion in 2018, no further changes to the existing structure are being sort at this time'.
- The conditions in dispute are Nos 1 and 2 which state that:
 - '1. The temporary dwelling hereby approved shall only be occupied by individuals engaged in the agricultural purposes detailed in the agricultural worker's needs appraisal by Dr Peter R. Sharpe dated 3rd March 2021' and;
 - '2. The building hereby permitted shall be removed and the land restored to its former condition on or before the 31st August 2024 or within 3 months of the site ceasing to be used for the agricultural purposes detailed in the submitted temporary agricultural worker's needs appraisal by Dr Peter R. Sharp in March 2021 whichever is the earlier'.
- The reason given for the conditions are:
 - '1. In order to define the permission . the dwelling has only been justified on the basis of the agricultural needs of the specific operation detailed within the submission. This condition is imposed in light of guidance with the National Planning Policy Framework (2021) and Policies 1 and 13 of the North Northamptonshire Joint Core Strategy (adopted 2016).
 - '2. The building ('eco-cabin') is a dwelling within the open countryside and is not appropriately designed for a permanent building in this location and the development is justified on the basis of the agricultural needs of the specific operation detailed. This condition is imposed in accordance with guidance within The National Planning Policy Framework (2021) and Policies 1, 3 and 8 and 13 of the North Northamptonshire Joint Core Strategy (2016) which seeks to safeguard the intrinsic value of the open countryside'.

Decision

1. The appeal is allowed and the planning permission Ref NC/21/00236/DPA for 'Temporary Planning permission was sort after in 2017 for a 2 bed eco log cabin to be used as a farm house for the business, it was approved for 3 years so farm business viability could be confirmed, application 16/00349/DPA. We are now seeking full permanent permission for the existing development that

has been in place since its completion in 2018, no further changes to the existing structure are being sort at this time' at Ganders Farm, Rockingham Road, Cottingham LE16 8XS granted on 26 August 2021 by North Northamptonshire Council, is varied by deleting condition No 1 and substituting for it the following condition:

1. *The occupation of the temporary dwelling hereby approved shall be limited to individuals engaged in the agricultural purposes detailed in the agricultural worker's needs appraisal by Dr Peter R. Sharpe dated 3rd March 2021, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.*
2. Insofar as the appeal concerns condition No 2 of planning permission Ref NC/21/00236/DPA, the appeal does not succeed. The condition is not modified and is retained.

Preliminary Matters

3. Since the Council determined the application, the Cottingham Neighbourhood Plan 2021-2031(NDP) has been adopted in December 2021. Similarly, the Part 2 Local Plan for Corby was adopted in September 2021. I have therefore had regard to these as part of my determination of the appeal together with the North Northamptonshire Joint Core Strategy (July 2016)(CS).

Background and Main Issue

4. A temporary planning permission¹ was granted by the Council in 2017 (the "original temporary permission") for the siting of a temporary rural worker's dwelling. The original temporary permission has now expired. This appeal follows the grant of a further temporary planning permission Ref: NC/21/00236/DPA for a rural worker's dwelling and it relates to the attached conditions Nos 1 and 2.
5. The appellant wishes to have a planning permission for a permanent agricultural worker's dwelling and thus seeks a variation of Condition 2 to remove the three year time limit of the planning permission. Additionally, a variation of Condition 1 is sought as the appellant wishes to expand the activities of the enterprise from those which originally formed part of an agricultural worker's needs appraisal dated 3 March 2021 (the "Agricultural Appraisal") and to provide some security for the appellant's family to enable surviving family members and resident dependents to occupy the dwelling.
6. The main issue is therefore whether conditions Nos 1 and 2 are necessary and reasonable, having regard to the development plan and the development of new dwellings within the countryside and in particular, whether there is an essential need for a dwelling to accommodate a rural worker having regard to the viability of the business and the impact on the character and appearance of the area.

¹ Planning Reference 16/00349/DPA

Reasons

Condition 2

7. By reason of the appeal site's location outside of a settlement boundary and for the purposes of applying planning policy, the appeal site is located within the countryside. CS Policy 13 sets out that residential development will not normally be granted within the countryside save for instances whereby it comprises an exceptional category of development. One such category concerns dwellings for rural workers to live at or near to their place of work within the countryside provided that, i) the dwelling is required to enable someone who is in full time employment in agricultural, forestry or similar rural businesses to meet the essential need of the enterprise concerned and, ii) it can be demonstrated that the functional, financial and viability tests in paragraph 5.41 have been met.
8. Paragraph 5.41 states that there are specific functional, financial and viability tests which need to be satisfactorily met in order for an isolated rural workers' dwelling to be acceptable. In addition to demonstrating an established functional need for the development that cannot be fulfilled by another existing dwelling in the area and showing the proposed dwelling is of a size and scale that is commensurate with the established functional requirement, a proposal must show the rural enterprise has been established for at least three years, has been profitable for at least one year and is currently financially sound with a clear prospect of remaining so.
9. This policy is broadly consistent with paragraph 80 of the National Planning Policy Framework (the Framework) insofar as it seeks to avoid isolated homes in the countryside unless in accordance with certain circumstances including where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
10. In terms of the need for a dwelling, the appellant explained at the hearing that there was a continuing need for a dwelling for the effective operation of the agricultural enterprise. In particular, it is essential that a person is able to live on site as their herd of goats require constant supervision 24-hours per day all year round for purposes of animal health and welfare. The inquisitive nature of goats and their propensity to be involved in conflict with each other can frequently lead to life threatening injuries that require a person to be within sight and earshot of a situation to deal with an emergency quickly. The essential need for a dwelling at Gander's Farm which cannot be fulfilled by an existing dwelling within the area is not disputed by the Council.
11. Reference was also made to the need to attend to emergencies arising from the coldstore. However, whilst I accept that errors and malfunctions could lead to a serious loss of ice-cream products, on the evidence before me, I take the view that monitors and alarms would be capable of satisfactorily mitigating the risk such that the need for a person to be resident on site at all times for these purposes is not necessary.
12. Turning to the issue of the rural enterprise being established, profitable and financially sound with a clear prospect of remaining so, I note that the business has been operated on a commercial basis since approximately May 2015 and has therefore been established for at least three years.

13. The Agricultural Appraisal sets out a summary of figures for sales, net profit, liabilities and net assets. It suggests the business achieved profits of £6631, £18360 and £14817 for the years of 2018, 2019 and 2020 respectively. However, this information is briefly summarised in a table format and is not in the form of fully detailed or audited business accounts.
14. Although there is no specific requirement within CS Policy 13 nor a similar obligation within the Framework to provide this level of detail regarding the financial position of the enterprise, both local and national policy in this instance set out to promote sustainable development and, in my view, the provision of a dwelling in the countryside for business use which is not proven to be viable could not be said to be sustainable.
15. In terms of income, I heard that the business generates income from several sources. The goat enterprise, for which it is accepted there is a functional need for a person to reside at the appeal site, generates income from the sale of meat and milk. Their milk is also used in the production of ice-cream and soap. However, income is also generated from activities that do not have a functional need, for instance, the sale of finished pigs, eggs and hay. There is little information before me regarding the breakdown of these income streams. Importantly, it is not clear to me whether the farming activity for which a functional need has been established is of itself profitable, or whether it contributes only a small amount of income such that it is incidental and the overall profitability of this part of the enterprise may not be sufficient to demonstrate an essential need to live there.
16. Furthermore, the submitted information fails to demonstrate whether all the costs of running and maintaining the enterprise have been taken into account and whether any costs that have been included are justified. There is limited evidence before me regarding expenditure for stock, feed, veterinary fees, power and utilities, maintenance, repairs, transport, marketing, insurance and financing.
17. Similarly, there is no information regarding wages. At present the enterprise is run by the appellant and his partner which equates to 2 full-time employees together with additional casual labour needed at weekends and during the peak season. However, no figures have been provided and therefore I cannot be certain that allowances have been made for wages within the accounts.
18. Although I note that the business has been established for several years and during this time the appellant advises that the business has provided an income to the appellant and his partner, I am also told that they live frugally, consuming their own produce, including meats, eggs and vegetables grown on-site. I am mindful that some will argue that individuals involved in agricultural enterprises are prepared to accept less than the minimum agricultural wage, however, it is reasonable to expect the business to provide a reasonable return on the money invested within it. It is particularly relevant in this instance as planning permission would run with the land and in my view the return should cover a reasonable living wage to sustain the running of a household and sufficient income to sustain the costs of the building including, if any, financing costs associated with the property, such as a mortgage. Whilst I note that the property is already constructed and there are no changes proposed to alter it in the future, there is no clear evidence before me which enables a thorough

assessment of the agricultural enterprises' finances to be fully appraised nor for a consideration of these against the money invested within the business.

19. To my mind, on the basis of the evidence before me, I am not satisfied that it has been demonstrated that the enterprise is likely to endure in the long term. There is a significant risk that the enterprise might cease in the future and this would leave behind a new dwelling that would not otherwise have been approved. As such, the appeal scheme fails to meet the criteria of paragraph 2.b) of CS Policy 13 and cannot therefore be considered as a rural exception site which justifies a permanent dwelling in this location.
20. I am mindful that it is unsatisfactory to grant successive temporary planning permissions, however, in this instance, new permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is shown to be economically viable.
21. For the reasons given above, I conclude that it is reasonable and necessary to limit the occupancy of the dwelling to a rural worker for a specified period in order for the agricultural enterprise to demonstrate that it is a financially sound business with a clear prospect of remaining so whilst safeguarding against any long term harm to the character and appearance of the area.
22. Consequently, for the reasons set out above, to allow the dwelling to remain for any longer than the specified time period, or permanently, as sought by the appellant in varying the condition, would be unreasonable based upon the submitted evidence and it would significantly harm the character and appearance of the surrounding area. This would be contrary to CS Policies 1, 3, 8 and 13 insofar as these policies seek to direct new development in accordance with a settlement hierarchy in order to conserve and protect the character and qualities of the local landscape.

Condition 1

23. Condition 1 requires the agricultural enterprise to be undertaken with regards to the agricultural purposes detailed within the Agricultural Appraisal. It is the appellant's view that this is overly restrictive and precludes the enterprise expanding into new agricultural activities that would generate new income streams.
24. In granting the original temporary permission, the Council were in effect accepting that the enterprise had been planned on a sound financial basis and that there was a functional need for a person to be present at most, if not all times of the day to ensure the functioning of the agricultural enterprise. The subsequent three year period is an opportunity for the enterprise to show that it can meet the essential need as set out within CS Policy 13. To my mind, it therefore follows that an enterprise should be undertaken with regard to the activities that it proposed to carry out, otherwise there is a risk that a fundamentally different farming activity could be undertaken which would not ordinarily merit a person living on site nor demonstrate that there is an 'essential need' for a rural worker's dwelling.
25. Successive renewals of temporary consents are inconsistent with the Planning Practice Guidance and should be avoided. However, in this instance, whilst the submitted supporting financial evidence is deficient, having regard to circumstances which have adversely impacted the business, namely the covid-

19 pandemic and livestock illness, a further temporary consent was deemed appropriate by the Council and I see no reason to disagree. However, in the absence of demonstrating that the agricultural enterprise is a financially sound business with a clear prospect of being sustained for a reasonable period of time, a further period of time is necessary in order to assess how the enterprise has developed over time and its actual performance compared against that which was projected.

26. Accordingly, I find that the restriction of Condition 1 is reasonable and necessary if a permanent dwelling which would not ordinarily be permitted in this location, is to be justified in due course. It therefore follows that in order to support a permanent dwelling the business must demonstrate that it is a viable enterprise having regard to the activity for which the functional need has been established. Consequently, I am satisfied that this part of Condition 1 is necessary and reasonable to ensure that the landscape character of the area is protected in accordance with the provisions of CS Policies 1 and 13.
27. However, I am mindful that Condition 1 provides no flexibility for the dwelling to be occupied other than by a person connected with carrying out the agricultural enterprise stipulated within the agricultural appraisal. In this respect, I see no reasonable justification for this being the case and I am minded to extend occupation of the temporary dwelling to a widow or widower or surviving civil partner and to any resident dependents.

Other Matters

28. Reference has been made to Policies BE2 and BE4 of the NDP. Policy BE2 provides support for additional employment opportunities and Policy BE4 supports the diversification and sustainable growth and expansion of farm businesses. However, these policies require new development to be appropriate to the rural location, have no adverse impact on environmental features and respect the character of the countryside. Given my findings above, any support for the appeal scheme from these policies is diluted by reason of the appeal site's location within the countryside.
29. Reference is made to the dwelling having minimum energy use and being heated and powered to be carbon neutral which are matters which weigh in favour of the appeal scheme. However, these considerations are not sufficient to overcome the conflict with the development plan and the consequent harm to landscape character of the surrounding area that could arise as a consequence of allowing a dwelling which would not otherwise be acceptable in this location.

Conclusion

30. For the reasons given above I conclude that the appeal should succeed in part. I am minded to vary Condition 1 only insofar as it concerns the occupation of the temporary dwelling by individuals engaged in the agricultural purposes detailed in the agricultural worker's needs appraisal by Dr Peter R. Sharpe dated 3rd March 2021, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
31. Insofar as Condition 1 relates to occupation of the dwelling subject to the agricultural purposes detailed in the agricultural worker's needs appraisal dated 3 March 2021, the appeal does not succeed.

32. Insofar as this appeal relates to Condition 2, the appeal does not succeed.

E Brownless

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Fernando Barber-Martinez North Northamptonshire Council

FOR THE APPELLANT:

Ian Horton Appellant

INTERESTED PARTIES:

David Grayson

Croash Robinson

Andrew Gray